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**REMARKS** 

Applicants appreciate the Examiner's thorough consideration provided in

the present application. Claims 1-8 are currently pending in the instant

application. Claims 1-4 have been amended. Claim 1 is independent. Claims

9-17 have been cancelled. Reconsideration of the present application is

earnestly solicited.

Claim Rejections under 35 U.S.C. 112

Claims 1 to 4 stand rejected under 35 U.S.C. 112, first paragraph, as

allegedly lacking proper support for the term "rubberized." This rejection is

respectfully traversed.

In the Office Action mailed on June 18, 2003 (page 4-5), the Examiner

states that according to page 5 of the specification, the non-marking materials

are described as non-marking rubber, rubber EPDM and plastic.

Before addressing the 112 rejection, Applicant would like to point out

that the above Examiner's characterization of the present invention is incorrect

in that it implies that "rubber EPDM" is known to be or has been admitted by

Applicants to be a non-marking material. This interpretation is respectfully

traversed.

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EPDM is **not** non-marking by nature. Page 5 of the Disclosure rather

calls for non-marking rubber EPDM thus not only for "rubber EPDM" as stated

by the Examiner, i.e., non-marking rubber EPDM and rubber EPDM are both

discussed. "Non-marking EPDM rubber" and "EPDM rubber" are two different

materials and should not be confused. This clarification is believed important

to fully understand the merits of the present invention.

In order to clarify the claimed invention for the benefit of the Examiner,

Applicants have amended the claims to remove the term "rubberized." In light

of the foregoing amendments to the claims, Applicants respectfully submit that

these rejections have been obviated and/or rendered moot. However,

Applicants submit that the requested changes do not appear to either raise a

substantial question of the patentability of the claimed invention nor do they

narrow the scope of the claimed invention.

Claim Rejections under 35 U.S.C. 102

Claims 1, 2 and 4-6 stand rejected under 35 U.S.C. 102(b) as being

anticipated by Prevost (United States Patent No. 5,958,527). This rejection is

respectfully traversed.

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Applicants submit that the prior art of record fails to teach or suggest

each and every limitation of the unique combination of limitations of the

claimed invention of claim 1, including the feature(s) of: "said infill layer

including a non-marking particulate material which is distributed so as to

prevent a ball from being marked when the same hits the synthetic grass

playing surface, wherein said non-marking particulate material is selected from

a group consisting of: non-marking rubbers and non-marking plastics."

(emphasis added) Accordingly, this rejection should be withdrawn.

The Examiner states that the granule materials of Prevost "namely

rubber, vermiculite, cork, foam plastic, black, cryogenically ground rubber or

colored EPDM rubber" are known to have characteristics of being non-marking

when a ball comes in contact with the granules. The Examiner also mentions

that EPDM rubber as disclosed in Prevost is known to be a non-marking

material.

It is respectfully submitted that the above assessments are inaccurate.

Colored EPDM rubbers, as the one referred to in Prevost, contains pigments

and carbon black which are known to be marking components when mixed

with any rubber. In contrast, the variety of EPDM rubbers referred to in the

present application is limited to an EPDM that has no marking components.

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Page 5, paragraph 24 calls for non-marking EPDM only. Colored EPDM and

non-marking EPDM are not the same thing. The former marks while the latter

does not. Prevost does not teach selecting non-marking rubber or non-marking

plastic, as recited in Claim 1. The rubber and plastic particles referred to in

Prevost are marking materials.

The Examiner's rejections appear to be based on the understanding that

the colored EPDM disclosed in Prevost is the same material as the non-marking

EPDM referred to in the present application. In view of the above explanation,

it is now believed that it is clear that there are in fact two very different rubber

materials and as such the Examiner's rejection under 102 is no longer

appropriate.

Furthermore, it is respectfully submitted that there is no suggestion in

Prevost to select any type of non-marking EPDM rubber or other types of non-

marking rubbers to form part of the infill layer of the synthetic grass playing

surface. Applicants were not aware of the ball marking problems at the time of

filing their U.S. Patent No. 5,958,527. The marking tendency of the granules

were only observed later on. Therefore, the Prevost reference does not provide

a solution to a problem that had not yet been recognized by the inventors.

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It is also respectfully submitted that there is no suggestion at all in

Prevost to recycle non-marking shoe soles in particulate infill material for

synthetic grass playing surface, e.g., as recited in Claim 3. This has even been

recognized by the Examiner. Accordingly, Claim 3 should no longer be rejected

under 35 U.S.C. 102. For there to be an anticipation, the reference must teach

every aspect of the claimed invention. As the Prevost reference is silent as to

the use of recycled shoe soles, the Examiner's rejection under

35 U.S.C. 102 is therefore clearly deficient and should be removed.

As to the dependent claims, Applicants respectfully submit that these

claims are allowable at least due to their dependence upon an allowable

independent claim, as well as for additional limitations provided by these

claims.

Claim Rejection Under 35 U.S.C. 103

Claims 3, 7 and 8 stand rejected under 35 U.S.C. 103(a) as being

allegedly unpatentable over Prevost. These rejections are respectfully

traversed.

In light of the foregoing amendments to the claims, Applicants

respectfully submit that these rejections have been obviated and/or rendered

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moot. As discussed in greater detail herein above with respect to Claims 1, 2

and 4 to 6, Applicants submit that the prior art of record fails to teach or

suggest each and every limitation of the unique combination of limitations of

the claimed invention of Claims 1, 2 and 4 to 6. Accordingly, these rejections

should be withdrawn.

In accordance with the above discussion of the patent relied upon by the

Examiner, Applicants respectfully submit that this document failed to teach or

suggest the invention as is set forth by the claims of the instant application.

Accordingly, reconsideration and withdrawal of the claimed rejections are

respectfully requested. Moreover, Applicants respectfully submit that the

application is in condition for allowance.

As to the dependent claims, Applicants respectfully submit that these

claims are allowable at least due to their dependence upon an allowable

independent claim, as well as for additional limitations provided by these

claims.

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## CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state-of-the-art, no further comments are necessary with respect thereto.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Matthew T. Shanley, Registration No. 47,074 at (703) 205-8000 in the Washington, D.C. area.

Applicants respectfully petition under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a three-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of **\$475.00** is attached hereto.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Bv

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